

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICIA PARKER,)	
)	Civil Action
Plaintiff)	No. 12-cv-05626
)	
vs.)	
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of the)	
Social Security Administration)	
)	
Defendant)	
)	
SOCIAL SECURITY ADMINISTRATION)	
)	
Interested Party)	
)	

O R D E R

NOW, this 31st day of March, 2016, upon consideration
of the following documents:

- (1) Decision of Administrative Law Judge Lystra A. Harris dated August 25, 2010;¹
- (2) Complaint filed October 12, 2012;
- (3) Answer filed February 11, 2013;
- (4) Plaintiff's Brief and Statement of Issues in Support of Request for Review, which brief and statement of issues was filed June 6, 2013;
- (5) Defendant's Response to Request for Review of Plaintiff, which response was filed December 4, 2013;
- (6) Plaintiff's [Reply] Brief and Statement of Issues in Support of Request for Review, which reply brief was filed December 17, 2013;² and

¹ See Administrative Record at pages 32-40.

² Plaintiff's opening and reply briefs had the same title.

(7) Report and Recommendation of United States Magistrate Judge Thomas J. Rueter dated and filed December 17, 2015;

after a thorough review of the record in this matter; it appearing that neither party filed objections to Magistrate Judge Rueter's Report and Recommendation; it further appearing that Magistrate Judge Rueter's Report and Recommendation correctly determined the legal and factual issues presented in this case,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Rueter is approved and adopted.

IT IS FURTHER ORDERED that plaintiff's request for review is granted in part and denied in part.

IT IS FURTHER ORDERED that plaintiff's request for review with respect to the claim for disability insurance benefits under Title II of the Social Security Act is granted.

IT IS FURTHER ORDERED that judgment is entered in favor of plaintiff Patricia Parker and against defendant Carolyn W. Colvin, Acting Commissioner of the Social Security Administration reversing the decision of the Commissioner of Social Security with respect to the claim for disability insurance benefits under Title II of the Social Security Act and for the purposes of remand only.

IT IS FURTHER ORDERED that the decision of the Commissioner dated August 25, 2010 and affirmed by the Appeals Council on June 8, 2012 is reversed with respect to the claim for disability insurance benefits under Title II of the Social Security Act only.

IT IS FURTHER ORDERED that, pursuant to sentence four of 42 U.S.C. § 405(g), this matter is remanded to the Acting Commissioner for further proceedings and review consistent with Magistrate Judge Rueter's Report and Recommendation, including reconsideration of all of the evidence concerning Mr. Kalman's cervical spine impairment and his headaches.³

IT IS FURTHER ORDERED that plaintiff's request for review with respect to the claim for supplemental security income under Title XVI of the Social Security Act is denied.

IT IS FURTHER ORDERED that the claim for supplemental security income under Title XVI of the Social Security Act is dismissed.

³ When the Administrative Law Judge ("ALJ") reevaluates the evidence, the ALJ shall either provide an adequate basis for rejecting such evidence, or reassess the residual functional capacity ("RFC") of plaintiff's decedent John William Kalman and his ability to perform work given the impairments. If the ALJ reaches a different conclusion regarding Mr. Kalman's RFC, the ALJ can submit a new hypothetical question to the vocational expert ("VE"). Upon remand the ALJ should also reevaluate Mr. Kalman's credibility in light of all the evidence.

IT IS FURTHER ORDERED that the Clerk of Court shall
mark this case closed for statistical purposes.

BY THE COURT:

/s/ JAMES KNOLL GARDNER

James Knoll Gardner
United States District Judge